

REMARKS

This is in response to the Official Action currently outstanding with regard to the above-identified application, which Official Action the Examiner again has designated as being FINAL.

At the outset, Applicants' undersigned representative wishes to thank the Examiner for her recent telephone call regarding the above-identified application. Applicants' undersigned representative hereby confirmed the substance of the Examiner's summary of that telephone interview, namely, that the Examiner confirmed Applicants' prior belief that a mistake had been made in the previous Official Action concerning the Examiner's rejection of Claim 2, and that the Examiner apparently felt that if the Applicants were willing to incorporate the limitations discussed in Applicants' Amendment of 29 February 2008 more literally into the present claims, those claims would be considered to at least place the present application in better form for Appeal, if not in condition for allowance, pursuant to 37 CFR 1.116. Unfortunately, the Examiner's available time was such that it was not possible for Applicants' undersigned representative to confer with the Applicants prior to the Examiner's need to act upon this application. In this regard as well, Applicants' undersigned representative notes that the Examiner suggested that she had additional references supporting her rejection of the subject matter of Claim 2, but those references were not disclosed to Applicants' undersigned representative either during the foregoing telephone interview or in the currently outstanding Official Action, that the Examiner has again designated as being FINAL.

In view of the foregoing, Applicants have assumed that their previous Amendment After Final Rejection of 29 August 2008 has not been entered in this application. Consequently, the foregoing Amendment restates the Amendments proposed on 29 August 2008 as well as further Amendments intended to more literally include the point discussed in Applicants' Amendment of 29 February 2008 pursuant to the Examiner's suggestion. As so amended, Applicants respectfully submit that the claims of this application meet the requirements orally stated by the Examiner and therefore now are in condition for allowance.

More particularly, Claims 1-4 and 6 were pending at the time of the issuance of the currently outstanding FINAL Official Action in the above-identified application (assuming that Applicants' last Amendment After Final Rejection has not been entered). By the foregoing Amendment, therefore, Applicants have proposed the amendment Claims 1, 3, 4 and 6 so as to include the limitations of Claim 2 and also so as to more literally include the points argued in Applicants' Amendment of 29 February 2008 as suggested by the Examiner. In addition, Applicants have proposed that Claim 2 be canceled, without prejudice. Otherwise, no claims are proposed to be either added or withdrawn by the foregoing Amendment. Accordingly, in the event that the Examiner grants entry of the foregoing Amendment, Claims 1, 3, 4 and 6 as hereinabove amended will constitute the claims under active prosecution in this application.

The Claims of this application are reproduced above with appropriate status identifiers and showing the changes proposed by this Amendment as required by the Rules.

More particularly, in the currently outstanding FINAL Official Action the Examiner has:

1. Does not re-acknowledge Applicants' claim for foreign priority under 35 USC §119 (a)-(d) or (f), or reconfirm the receipt by the United States Patent and Trademark Office of the required copies of the priority documents – **Applicant respectfully notes for the record that these matters were previously acknowledged by the Examiner in the Official Action of 7 November 2007;**
2. Does not re-accept the formal drawings filed with the above-identified application on 6 January 2005 - **Applicant respectfully notes for the record that this matter as well was previously acknowledged by the Examiner in the Official Action of 7 November 2007;**

3. Objected to Claim 1 on the grounds that the word “methodcomprising” should be separated into two separate words. Furthermore, the Examiner has withdrawn her previous objections to Claims 4-6 on the basis of Applicants’ previous Amendments.:
Applicants respectfully submit that the foregoing amendment corrects the inadvertent spelling error in Claim 1 and thereby overcomes the Examiner’s objection. As to the Examiner’s remaining objections, Applicants respectfully note that since the status of their previous amendments is unclear in view of the Examiner’s issuance of two successive FINAL Official Actions, the foregoing Amendment incorporates Applicants’ next previous Amendments that the Examiner has suggested overcame her previous formal objections to the Claims. Hence, Applicant respectfully submits that the formal errors in Claims 5 and 6 noted by the Examiner are corrected by the foregoing Amendments to the claims of this application. Similarly, Applicants respectfully submit that Claim 4 as amended hereinabove has removed any ambiguity that might have heretofore existed as to whether Claim 4 is directed to a system or to an apparatus.
4. Indicated that Claims 1-4 and 6 are rejected under 35 USC 103(a) as being unpatentable over Bentley et al (US 2003/0217275) in view of Yankovich et al (US Patent No. 6,704,906).

Further comment regarding items 1-3 above is not deemed to be required in these Remarks.

With respect to item 4, on the other hand, Applicant by the foregoing Amendment again proposes that Claims 1, 3, 4 and 6 each be amended so as to incorporate the limitations of Claim 2. In this regard, Applicant respectfully notes that in the currently outstanding Official Action the Examiner has indicated that her previous comment concerning Yankovich et al and Claim 2 was inadvertently erroneously made. Nevertheless, Applicants respectfully submit that the inclusion of the features of Claim 2 in Claims 1, 3, 4 and 6 are clearly indicative that the Examiner’s previous position combined with their previous Amendment placed this application in condition for allowance.

As mentioned above, it is Applicants' undersigned representative's understanding that the Examiner believes that she has located at least two other references that would fill the gap left in her previous rejection by the inapplicability of the Yankosvich et al reference or its misconstruction by her in the last Official Action in this case. However, since the Examiner has seen fit not to disclose that art to the Applicants either during the telephone interview with their undersigned representative or otherwise, Applicants maintain their position that the combination of the subject matter of Claim 2 with each of the remaining claims results in those claims being patentable.

Moreover, as mentioned previously, it is Applicants' understanding from the Examiner's comments to their undersigned representative and from her summary thereof dated 16 September 2008, that in the event that the Claims of this application were to be amended so as to more literally incorporate the subject matter discussed at page 11 of their Amendment of 29 February 2008 the claims of this application would in any event become at least enterable for purposes of Appeal under 37 CFR 1.116, and indeed most likely allowable. Applicants respectfully submit that the foregoing Amendment conforms the claims of this application to these comments and instructions from the Examiner and hence places the claims of this application in condition for allowance.

Accordingly, Applicant respectfully submits that Claims 1, 3, 4 and 6 as hereinabove amended now are in condition for allowance. Consequentially, reconsideration and allowance of the above-identified application in view of the foregoing amendment and Remarks are respectfully requested.

Applicants also believe that additional fees beyond those submitted herewith are not required in connection with the consideration of this response to the currently outstanding Official Action. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge and/or credit Deposit Account No. 04-1105, as necessary, for the correct payment of all fees which may be due in connection with the filing and consideration of this communication.

Respectfully submitted,

Date: December 10, 2008



SIGNATURE OF PRACTITIONER

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